



**NORTH FALLS**

*Offshore Wind Farm*

# **HABITATS REGULATIONS**

## **ASSESSMENT**

### Appendix 1 Compensatory Measures Overview

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## Glossary of Acronyms

AA	Appropriate Assessment
AEoL	Adverse Effect on Integrity
AfL	Agreement for Lease
AOE	Alde Ore Estuary
BEIS	Department for Business, Energy and Industrial Strategy
CCC	Climate Change Committee
CCRA	Climate Change Risk Assessment
CIMPs	Compensation Implementation and Management Plans
CL	Confidence Limit
COWSC	Collaboration on Offshore Wind Strategic Compensation
DCO	Development Consent Order
Defra	Department for Environment, Food & Rural Affairs
DESNZ	Department for Energy Security and Net Zero
EC	European Commission
EIA	Environmental Impact Assessment
ES	Environmental Statement
ETG	Expert Topic Group
FFC	Flamborough and Filey Coast
GGOW	Greater Gabbard Offshore Wind Farm
GW	Gigawatt
HRA	Habitats Regulation Assessment
IROPI	Imperative Reasons of Overriding Public Interest
Lbbg	Lesser Black-backed Gull
LSE	Likely Significant Effects
MCZ	Marine Conservation Zone
MPA	Marine Protected Area
MRF	Marine Recovery Fund
NFOW	North Falls Offshore Wind Farm Ltd
NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Projects
NSN	National Site Network
OTE	Outer Thames Estuary
OWEIP	Offshore Wind Environmental Improvement Package
RIAA	Report to Inform Appropriate Assessment
RSPB	Royal Society for the Protection of Birds
RWE	RWE Renewables UK Swindon Ltd
SAC	Special Areas of Conservation
SEP & DEP	Sheringham and Dudgeon Extension Projects
SNCB	Statutory Nature Conservation Bodies

SPA	Special Protection Areas
SSER	SSE Renewables Offshore Windfarm Holdings Limited
UK	United Kingdom
WTGs	Wind Turbine Generation Systems

## Glossary of Terminology

Array area	The offshore wind farm area, within which the wind turbine generators, array cables, platform interconnector cable, offshore substation platform(s) and/or offshore converter platform will be located.
European site	Any site which would be included within the definition at Regulation 8 of the Conservation of Habitats and Species Regulations 2017 and Regulation 18 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 for the purpose of those regulations, including candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation, Special Protection Areas and any relevant marine sites.
National Site Network	The network of European sites in the UK.
The Applicant	North Falls Offshore Wind Farm Limited (NFOW).
The Project or 'North Falls'	North Falls Offshore Wind Farm, including all onshore and offshore infrastructure.

# 1 Introduction

## 1.1 Project background

1. North Falls Offshore Wind Farm (hereafter 'North Falls' or 'the Project') is an extension to the existing Greater Gabbard Offshore Wind Farm (GGOW), in the southern North Sea. When operational, North Falls would have the potential to generate renewable power for approximately 400,000 UK homes from up to 57 wind turbines.
2. The Applicant, North Falls Offshore Wind Farm Ltd (NFOW), joint venture between SSE Renewables Offshore Windfarm Holdings Limited (SSER) and RWE Renewables UK Swindon Limited (RWE), both of which are highly experienced developers.

## 1.2 Purpose of document

3. The Applicant has submitted an application for a Development Consent Order (DCO) which is supported by a Report to Inform Appropriate Assessment (RIAA) (Document Reference: 7.1). In response to the outcomes of the Applicant's RIAA, extensive stakeholder consultation and the outcomes from other UK offshore wind farm (OWF) DCO applications and decisions, the Applicant has prepared information describing proposed compensatory measures for relevant European site features.
4. The compensation forms part of the Applicant's Habitats Regulations Assessment (HRA) Derogation Provision of Evidence (Document Reference: 7.2), which also sets out the Applicant's submission in relation to the assessment of alternative solutions and Imperative Reasons of Overriding Public Interest (IROPI).
5. This document provides a guide to the suite of documents prepared by the Applicant relating to its proposed compensatory measures. This includes an overview of the compensatory measures and the process followed in their development. This document is also intended to provide signposting to other areas of the application where further information and evidence in support of the Applicant's compensation proposals can be found.
6. The ornithological feature and European site for which an adverse effect on the integrity (AEoI) is concluded and for which compensation is provided is:
  - Lesser black-backed gull from the Alde Ore Estuary (AOE) Special Protection Area (SPA).
    - The RIAA Part 4 Offshore Ornithology (Document Reference: 7.1.4) concludes that an AEoI cannot be ruled out as a result of predicted mortality due to collision risk, when considered in-combination with other OWFs. As such, the Applicant has provided proposals for compensatory measures which are secured in the draft DCO (Document Reference: 6.1).
7. In addition, a without prejudice derogation case, including compensatory measures, is provided for the following features/European sites:



- Red-throated diver from the Outer Thames Estuary (OTE) SPA.
  - The Applicant's RIAA Part 4 Offshore Ornithology (Document Reference: 7.1.4) concludes no AEol of this feature and SPA as a result of North Falls alone and in-combination. In the event that the Secretary of State is unable to reach a conclusion of no AEol with respect to in-combination displacement of this feature, the Applicant has developed without prejudice compensatory measures that could be applied to provide compensation for the predicted effects.
- Kittiwake from Flamborough and Filey Coast (FFC) SPA.
  - The RIAA Part 4 Offshore Ornithology (Document Reference: 7.1.4) concludes no AEol of this feature and SPA as a result of North Falls alone and in-combination. In the event that the Secretary of State is unable to reach a conclusion of no AEol with respect to in-combination collision risk for this feature, the Applicant has developed without prejudice compensatory measures that could be applied to provide compensation for the predicted effects.
- Guillemot and razorbill from FFC SPA.
  - The RIAA Part 4 Offshore Ornithology (Document Reference: 7.1.4) concludes that there will be no AEol either alone or in-combination with other OWFs. In the event that the Secretary of State is unable to reach a conclusion of no AEol with respect to in-combination mortality due to displacement of these features, the Applicant has developed without prejudice compensatory measures that could be applied to provide compensation for the predicted effects.

## 2 Quantification of Effect and Compensatory Measures

8. A detailed assessment of the predicted effects of North Falls is provided in the RIAA Part 4 Offshore Ornithology (Document Reference: 7.1.4).
9. The quantum of compensation required for lesser black-backed gull for the AOE SPA is outlined in Table 2.1. Further details are provided in the Lesser Black-Backed Gull Compensation Document (Appendix 2).
10. The quantum of compensation, which may be required should the Secretary of State conclude an AEol in the Appropriate Assessment on red throated diver of the OTE SPA and/or kittiwake, guillemot and/or razorbill of the FFC SPA is outlined in Table 2.2, without prejudice of the Applicant's conclusions in the RIAA that there is no AEol on the OTE SPA or FFC SPA. Further details are provided in the relevant Compensation Documents (Appendices 3 to 5 (Document References: 7.2.3, 7.3.4 and 7.2.5)), as set out in Section 4.

**Table 2.1 Overview of predicted impacts from North Falls on AOE SPA and associated compensation proposals**

Site	Feature	Effect	Scale of Effect	Compensation
AOE SPA	Lesser black-backed gull	In-combination collision mortality	Annual mortality of 3.1 (95% Confidence Limit (CL) 0 – 11)	Breeding habitat enhancement (e.g. predator exclusion/control, disturbance management, habitat management) to support 25 breeding pairs (see Section 6.3 of Appendix 2 Lesser black-backed gull Compensation Document, - Document Reference: 7.2.2).

**Table 2.2 Overview of predicted impacts on OTE SPA and FFCSPA and associated without prejudice compensation proposals**

Site	Feature	Effect	Scale of Effect	Compensation
OTE SPA	Red throated diver	In-combination displacement / barrier effect during operation	Effective displacement area 35.64km <sup>2</sup> Total Displacement area <sup>1</sup> of 108.7km <sup>2</sup> Annual mortality 1-11 (1-10% mortality)	Up to 20 artificial nesting rafts and/or habitat management measures (see Section 6.4 of the Red throated diver Compensation Document, Document Reference: 7.2.3). Or Contribution to data collection in the Outer Thames Estuary SPA (see Section 8.2 of the Red throated diver Compensation Document, Document Reference: 7.2.3).
FFC SPA	Kittiwake	In-combination collision mortality	Annual mortality of 0.76 (95% CL 0.09 – 2.72)	An onshore artificial nesting structure for 6-7 pairs (see Section 6.3 of the Kittiwake Compensation Document (Document Reference: 7.2.4).
FFC SPA	Guillemot	In-combination displacement / barrier effect during operation	Annual mortality 1.2 (95% CL 0.2 – 3.2)	Reduction in recreational disturbance at a breeding colony to support uptake of available nesting space by guillemot and razorbill (see Section 6.3 of the Guillemot and Razorbill Compensation Document, Document Reference: 7.2.5)
	Razorbill		Annual mortality 0.6 (95% CL 0.2 – 1.3)	

<sup>1</sup> It is the Applicant's position that this area of displacement is already subject to displacement from existing activities/ infrastructure and therefore there is no material contribution from North Falls to an adverse effect on integrity alone or in-combination.

### 3 The Applicant’s Approach to Developing Compensatory Measures

#### 3.1 Overview of the Approach

11. The compensatory measures and method of delivery considered include project-led, collaborative and strategic measures. The primary focus is on project-led and collaborative measures due to uncertainty in the availability of strategic measures at the time of writing, however the Applicant will consider strategic options as they become available (Section 3.5). In the DCO the Applicant has provided for the substitution of project-led and collaborative measures with strategic compensation should these measures become available. This is in line with the approach taken by Sheringham and Dudgeon Extension Projects (SEP & DEP). Should it be concluded that compensatory measures are required for the other species assessed, the Applicant would expect a similar approach be taken in any amendments to the DCO.
12. The delivery methods have been selected based on the feasibility, ecological effectiveness and proportionality of each measure relative to the predicted effect and relative benefit to the national site network (NSN). A summary of the process followed to identify and develop compensatory measures is provided in Table 3.1. Further information on the proposed measures and process for their selection is provided in the documents in the following Appendices to the HRA derogation case:
  - Appendix 2: Lesser Black-backed Gull Compensation Document (Document Reference: 7.2.2);
  - Appendix 3: Red-throated Diver Compensation Document (Document Reference: 7.2.3);
  - Appendix 4: Kittiwake Compensation Document (Document Reference: 7.2.4); and
  - Appendix 5: Guillemot and Razorbill Compensation Document (Document Reference: 7.2.5) and an overview is provided in Section 6.
13. Consultation (Section 3.2) was undertaken throughout the pre-application process with relevant stakeholders which informed the selection and development of the measures. Consultation regarding compensatory measures will continue post DCO submission, Examination phase and post consent.

**Table 3.1 Description of Activities Undertaken to Identify and Develop Compensatory Measures**

Activity	Description
Initial review of compensatory measures	Review of compensatory measures presented to ETG.
Consultation	See Section 3.2
Ongoing review	Ongoing review of other OWF applications for which compensatory measures have been developed (e.g. Hornsea Three, Norfolk Boreas, Norfolk Vanguard, East Anglia ONE North, East Anglia TWO, Hornsea Project Four and Sheringham and Dudgeon OWF Extension Projects), including those accepted as appropriate in the determination.

Activity	Description
Review of ecological evidence	Review of evidence on wind farm and seabird interactions and influences on seabird ecology more widely to determine whether novel options may be appropriate.
Feasibility	Features of the options identified through this process were then considered in relation to various criteria (feasibility, spatial and temporal scale, monitoring, etc.).

### 3.2 Consultation

14. The Applicant has consulted extensively with a range of stakeholders at regular intervals throughout the pre-application process. The process has involved the iterative development of the proposed measures in consultation with relevant stakeholders as outlined in Table 3.2 and Plate 3.1.
15. Feedback from consultation with the Offshore Ornithology Expert Topic Group (Natural England and RSPB) is detailed in Annex 1 of this document, along with responses from the Applicant showing how this has been used to inform the development of the compensatory measures.
16. In addition, the Applicant has engaged with other developers regarding potential collaboration in delivering compensatory measures (discussed further in Section 3.4).

**Table 3.2 Consultation regarding HRA compensation**

No. <sup>2</sup>	Date	Consultation	Stakeholder
1.	3 March 2022	In Principal Compensation Options Review submitted to ETG	Natural England and RSPB
2.	17 March 2022	Expert topic group meeting including discussion on compensation options for red throated diver, kittiwake and lesser black-backed gull	Natural England (apologies from RSPB)
3.	22 March 2022	Written Feedback on compensation options review for red throated diver, kittiwake and lesser black-backed gull	Royal Society for the Protection of Birds (RSPB)
	05 April 2022	Written Feedback on compensation options review for red throated diver, kittiwake and lesser black-backed gull	Natural England
4.	06 June 2022	Meeting regarding strategic compensation	Defra
5.	02 August 2022	Meeting regarding strategic compensation	Defra
6.	29 November 2022	Meeting regarding strategic compensation	Defra
7.	16 May 2023	Updated In Principal Compensation Options Review submitted as part of Preliminary Environmental Information (PEI)	All

<sup>2</sup> See no.s in Plate 3.1

No. <sup>2</sup>	Date	Consultation	Stakeholder
8.	14 July 2023	Written Feedback on compensation options review for red throated diver, kittiwake and lesser black-backed gull (PEI response, Annex 5	Natural England & RSPB
9.	30 October 2023	Red throated diver technical note submitted to ETG	Natural England & RSPB
10.	13 November 2023	Expert topic group meeting including discussion on compensation for red-throated diver and lesser black-backed gull	Natural England and RSPB
11.	28 November 2023	Lesser Black-backed Gull (Lbbg) technical note submitted to ETG	Natural England & RSPB
12.	15 December 2023	Written Feedback on Red-throated diver in-principle compensation options technical note	Natural England
13.	08 January 2024	Written Feedback on Lesser black-backed gull in-principle compensation options technical note	Natural England
14.	01 February 2024	Meeting regarding strategic compensation	Defra
15.	05 March 2024	Meeting regarding strategic compensation	Defra
16.	08 March 2024	Kittiwake in-principle compensation options technical note submitted to ETG	Natural England
17.	08 March 2024	Auk in-principle compensation options technical note submitted	Natural England & RSPB
18.	19 March 2024	Discussion of strategic compensation	The Crown Estate
19.	11 April 2024	Expert topic group meeting regarding red throated diver, kittiwake, lbbg and auk compensation	Natural England and RSPB
20.	26 April 2024	Written feedback on auk in-principle compensation options technical note	Natural England
21.	02 May 2024	Meeting regarding strategic compensation	Defra

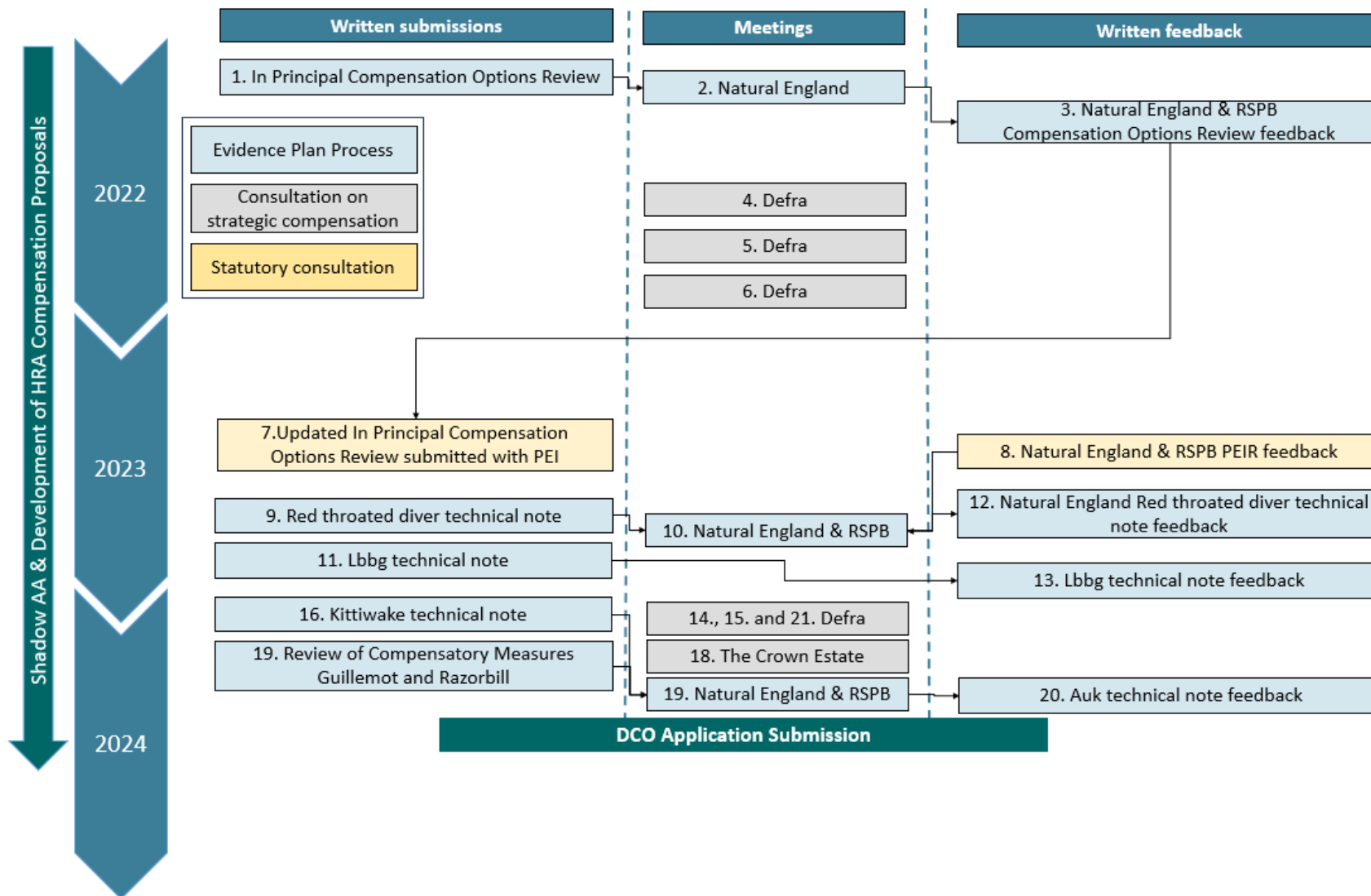


Plate 3.1 Overview of Pre-Application Consultation on Derogation and Compensatory Measures (no.s relate to Table 3.2)

### 3.3 Policy and guidance

#### 3.3.1 Policy

17. National Policy Statements (NPS) are the principal decision-making policy documents for Nationally Significant Infrastructure Projects (NSIPs) such as North Falls. Those relevant to North Falls and HRA compensation are:
- The Overarching NPS for Energy (NPS EN-1) (DESNZ, 2023a); and
  - The NPS for Renewable Energy Infrastructure (NPS EN-3) (DESNZ, 2023b).

**Table 3.3 Key NPS policies of relevance to HRA compensation**

NPS requirement	NPS reference	Where addressed in the Application
<p>For HRAs, where an applicant has shown there are no deliverable alternative solutions, and that there are IROPI, compensatory measures must be secured by the Secretary of State as the competent authority, to offset the adverse effects to site integrity as part of a derogation. For MCZs, where an applicant has shown there are no other means of proceeding which would create a substantially lower risk, and the benefit to the public outweighs the risk of damage to the environment, the Secretary of State must be satisfied that measures of equivalent environmental benefit will be undertaken.</p>	<p>EN-1 paragraph 4.2.22</p>	<p>The compensatory measures proposed by the Applicant, where required based on the conclusions of the Secretary of States' Appropriate Assessment, can be secured through the DCO.</p>
<p>The British Energy Security Strategy committed to establishing strategic compensation for offshore renewables NSIPs, to offset environmental effects but also to reduce delays for individual projects. See paragraphs 2.8.276 – 2.8.283 of EN-3 for further information.</p>	<p>EN-1 paragraph 5.4.6</p>	<p>The Applicant continues to monitor progress of strategic compensation and the implementation of the MRF. Further information on strategic compensation is provided in Section 3.5.</p>
<p>If, during the pre-application stage, the SNCB indicate that the proposed development is likely to adversely impact the integrity of habitat sites, the applicant must include with their application such information as may reasonably be required to assess a potential derogation under the Habitats Regulations.</p> <p>If the SNCB gives such an indication at a later stage in the development consent process, the applicant must provide this information as soon as is reasonably possible and before the close of the examination. This information must include assessment of alternative solutions, a case for Imperative Reasons of Overriding Public Interest (IROPI) and appropriate environmental compensation.</p>	<p>EN-1 paragraph 5.4.26 &amp; 5.4.27</p>	<p>The Applicant has provided compensation proposals in response to advice from the Statutory Nature Conservation Body (SNCB) in respect of red-throated divers at the OTE SPA, kittiwake at the FFC SPA, and guillemot and razorbill at the FFC SPA, without prejudice of the conclusion of the RIAA Part 4 Offshore Ornithology (Document Reference: 7.1.4).</p>
<p>It is vital that applicants consider the need for compensation as early as possible in the design process as 'retrofitting' compensatory</p>	<p>EN-1 paragraph 5.4.29</p>	<p>Consideration of compensatory measures commenced early in the pre-application process, with a review of option submitted</p>

NPS requirement	NPS reference	Where addressed in the Application
measures will introduce delays and uncertainty to the consenting process.		to the Offshore Ornithology Expert Topic Group in March 2022 and compensation has proceeded throughout the pre-application stage, as outlined in Section 3.2 and detailed in Annex 1A (Document Reference: 7.2.1.1).
Applicants should work closely at an early stage in the pre-application process with SNCB and Defra/Welsh Government to develop a compensation plan for all protected sites adversely affected by the development. Applicants should engage with the relevant Local Planning Authority at an early stage regarding the proposed location of compensatory measures. Applicants should also take account of any strategic plan level compensation plans in developing project level compensation plans.	EN-1 paragraph 5.4.30	
Before submitting an application, applicants should seek the views of the SNCB and Defra/Welsh Government as to the suitability, securability and effectiveness of the compensation plan to ensure the development will not hinder the achievement of the conservation objectives for the protected site. In cases where such views are provided, the applicant should include a copy of this information with the compensation plan in their application for further consideration by the Examining Authority.	EN-1 paragraph 5.4.31	
As a general principle, and subject to the specific policies below, development should, in line with the mitigation hierarchy, aim to avoid significant harm to biodiversity and geological conservation interests, including through consideration of reasonable alternatives (as set out in Section 4.3 above). Where significant harm cannot be avoided, impacts should be mitigated and as a last resort, appropriate compensation measures should be sought.	EN-1 paragraph 5.4.42	Throughout the pre-application process, the Applicant has refined the design of the project e.g. reduction of the array area and number of turbines. These commitments are included as embedded mitigation in the RIAA Part 4 Offshore Ornithology (Document Reference: 7.1.4) and alternative solutions are discussed in the HRA Derogation Provision of Evidence (Document Reference: 7.2).
If significant harm to biodiversity resulting from a development cannot be avoided (for example through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then the Secretary of State will give significant weight to any residual harm.	EN-1 paragraph 5.4.43	The effects identified in the RIAA and/or in consultation with the SNCB can be compensated by the proposed measures described in the documents listed in Section 4.
The Secretary of State should consider what appropriate requirements should be attached to any consent and/or in any planning obligations entered into, in order to ensure that any mitigation or biodiversity net gain measures, if offered, are delivered and maintained. Any habitat creation or enhancement delivered including linkages with existing habitats for compensation or biodiversity net gain should generally be maintained for a minimum period of 30 years, or for the lifetime of the project, if longer.	EN-1 paragraph 5.4.44	The proposed compensation measures can be secured through the DCO and be delivered in accordance with the Outline Compensation Implementation Plans listed in Section 4.  The proposed measures would be maintained for the life of the project which has an indicative duration of 30 years.
The British Energy Security Strategy committed to implementing an Offshore Wind Environmental Improvement Package (OWEIP), which aims to streamline	EN-3 paragraph 2.8.8	Guidance has been considered in the development of the compensatory measures and is outlined in Section 3.3.2.



NPS requirement	NPS reference	Where addressed in the Application
<p>environmental assessments, decrease consenting times, and maintain marine environmental protections. The OWEIP includes measures to:</p> <ul style="list-style-type: none"> <li>• revise Marine Protected Area assessment guidance (including Habitats Regulations and Marine Conservation Zone (MCZ) Assessments) to streamline and simplify the information applicants must supply.</li> <li>• revise the Habitats Regulations and MCZ assessment process for offshore wind to facilitate the delivery of compensation measures whilst maintaining valued protection for wildlife.</li> <li>• facilitate the delivery of strategic environmental compensation measures to offset environmental effects and reduce delays to projects, including development of a library of compensation measures, through the Collaboration on Offshore Wind Strategic Compensation (COWSC) programme.</li> <li>• implement an industry-funded Marine Recovery Fund (MRF), into which developers can choose to contribute to meet their environmental compensation obligations.</li> <li>• mmcommon [sic] requirement for designing wind farms and offshore transmission infrastructure, providing greater certainty and speeding up the consenting process.</li> <li>• develop a strategic approach to environmental monitoring.</li> </ul>		<p>The Applicant continues to monitor progress of changes to the HRA process, development of strategic compensation and the implementation of the MRF. Further information on strategic compensation is provided in Section 3.5.</p>
<p>Various aspects of the Offshore Wind Environmental Improvement Package (OWEIP) will be subject to public consultation and guidance will be produced in due course.</p>	<p>EN-3 para 2.8.9</p>	<p>The parent companies of the Applicant have responded to consultation on relevant aspects of the OWEIP.</p>
<p>Applicants are encouraged to work collaboratively with those other developers and sea users on co-existence/co-location opportunities, shared mitigation, compensation and monitoring where appropriate. Where applicable, the creation of statements of common ground between developers is recommended. Work is ongoing between government and industry to support effective collaboration and to find solutions to facilitate to greater co-existence/co-location.</p>	<p>EN-3 para 2.8.48</p>	<p>The Applicant has engaged with other OWFs on the potential to collaborate on compensatory measures (Section 3.4). Co-existence with other sea users is discussed in relevant chapters of the ES including Chapter 14 Commercial Fisheries (Document Reference: 3.1.16); Chapter 15 Shipping and Navigation (Document Reference: 3.1.17); Chapter 18 Infrastructure and Other Users (Document Reference: 3.1.20). Co-location with the neighbouring Five Estuaries OWF is discussed in ES Chapter 4 Site Selection and Assessment of Alternatives (Document Reference: 3.1.6) and Chapter 5 Project Description (Document Reference: 3.1.7) and in the Co-ordination Report (Document Reference: 2.5).</p>

NPS requirement	NPS reference	Where addressed in the Application
Applicants are expected to seek advice from SNCBs and Defra for projects in England, in conjunction with relevant regulators, Local Planning Authorities and/or landowners, on potential mitigation and/or compensation requirements at the earliest opportunity and comply with future statutory requirements and/or guidance once available.	EN-3 para 2.8.56	Early consultation with relevant stakeholders on compensatory measures has been undertaken as outlined in Section 3.2. Wider consultation on the Application is described in the Consultation Report (Document Reference: 2.5).
Monitoring must measure and document the effects of the development and the efficacy of any associated mitigation or compensation	EN-3 para 2.8.84	Monitoring proposals are included in the Compensation Documents listed in Section 4.
Applicants should consult at an early stage of pre-application with relevant statutory consultees and energy not-for profit organisations/non governmental organisations as appropriate, on the assessment methodologies, baseline data collection, and potential avoidance, mitigation and compensation options which should be undertaken.	EN-3 para 2.8.104	Early consultation with relevant stakeholders on compensatory measures has been undertaken as outlined in Section 3.2. Wider consultation on the Application is described in the Consultation Report (Document Reference: 2.5).
In developing proposals applicants must refer to the most recent best practice advice originally provided by Natural England under the Offshore Wind Enabling Action Programme, and/or their relevant SNCB.	EN-3 para 2.8.105	In developing compensatory measures, the Applicant has referred to various guidance as set out in Section 3.3.2.  The Natural England (2022) Best Practice Advice states “ <i>Where compensatory measures may be required, a well-defined [maximum design scenario] will help to determine the extent and type of compensation that may be required.</i> ” Throughout the pre-application process, the Applicant has refined the design of the project e.g. reduction of the array area and number of turbines. These commitments are included as embedded mitigation in the RIAA Part 4 Offshore Ornithology (Document Reference: 7.1.4) and therefore are factored in the scale of required compensation outlined in Section 2.

### 3.3.2 Guidance on compensatory measures

18. The following UK and European Commission (EC) Guidance have been considered in the development of the North Falls HRA compensation:
- Defra (2021) Best practice guidance for developing compensatory measures in relation to Marine Protected Areas. Draft for consultation
  - Defra (2024) Consultation on policies to inform updated guidance for Marine Protected Area (MPA) assessments. Draft for consultation
  - The Planning Inspectorate (2022). Advice Note Ten: Habitat Regulations Assessment relevant to Nationally Significant Infrastructure Projects.
  - Natural England (2022) Offshore Wind Marine Environmental Assessments: Best Practice Advice for Evidence and Data Standards. Phase III:

Expectations for data analysis and presentation at examination for offshore wind applications.

### 3.3.2.1 Defra guidance

19. In 2021, Defra published for consultation a document setting out best practice guidance for developing compensatory measures in relation to Marine Protected Areas (MPA) (Defra, 2021). Finalised guidance has not yet been published but was subject to further consultation regarding the policies to inform updated guidance for MPA assessments (Defra, 2024).
20. Defra (2021) set out the following principles that compensation should satisfy:
  - *“Link to the conservation objectives for the site or feature and address the specific damage caused by the permitted activity;*
  - *Focus on providing the same ecological function for the species or habitat that the activity is damaging OR, where this is not technically possible, provide functions and properties that are comparable to those that originally justified designation;*
  - *Not negatively impact on any other sites or features;*
  - *Ensure the overall coherence of designated sites and the integrity of the MPA network; and*
  - *Be able to be monitored to demonstrate that they have delivered effective and sustainable compensation for the impact of the Project. The monitoring and management strategy must require further action to be taken if the compensation is not successful.”*
21. Defra (2024) states that:

*“The following factors should be considered in order of priority when selecting measures:*

  - i. Ecological effectiveness – ecological effectiveness of measures takes account of the ecological outcomes to be achieved and the confidence that the measures will be effective. This should be the priority consideration when working through the hierarchy.*
  - ii. Local circumstances – as far as possible, measures should take account of local circumstances where the risk is predicted to occur (see local circumstances header for further information).*
  - iii. Proximity – measures should be delivered as close as possible to the area affected by the plan or project.*

*...The location of measures should not take priority over the ecological outcomes that might be secured. Proximity and local circumstances are considerations which must be balanced against the confidence that measures will be effective and the ecological outcomes which will be secured.”*
22. Defra guidance is therefore understood to support a flexible approach to compensatory measures, provided the proposals are ecologically effective in benefiting the coherence of the NSN. Evidence of the ecological effectiveness of the proposed compensatory measures for the Project is provided in the Compensation Documents listed in Section 4.

23. Defra (2024) notes that is a longstanding principle that compensatory measures must be additional to measures normally undertaken to manage or conserve the relevant European site. Defra (2024) states:

*“Measures can be considered to be additional if they enhance or extend or complement either normal site management measures or the normal steps to avoid deterioration or disturbance (or both). This includes measures which would:*

- *increase the scale, magnitude, or scope of normal measures*
- *speed up delivery beyond what would be normally delivered in the absence of the plan or project coming forwards and where the current implementation timescales risk meaningful ecological deterioration in the interim.”*

24. Therefore the development of the North Falls compensation proposals has taken into account normal management measures for the relevant European sites.

### 3.3.2.2 Planning Inspectorate Advice Note Ten

25. Advice Note Ten: Habitats Regulations Assessment relevant to nationally significant infrastructure projects provides the following guidance on the compensatory measures.

*“In the event that the Applicant is proceeding under HRA Stage 3: Derogations, suitable Compensatory Measures must be identified. The HRA Report should describe the measures and how their delivery would be secured. The measures need to fully compensate for the adverse effects of the Proposed Development such that the coherence of the NSN is maintained. The joint guidance specifies appropriate considerations for the Compensatory Measures, including:*

- *technical feasibility;*
- *financial viability;*
- *how it will be undertaken, managed and monitored; distance from affected site; and*
- *how long it would take for the Compensatory Measures to achieve the required quality and amount of habitat.*

*Compensatory Measures should be in place and effective before the negative effect on a European site(s) could occur.*

*The Secretary of State as the Competent Authority, will need to be satisfied that all necessary arrangements for securing the compensatory measures are in place before consent could be given for the Proposed Development to proceed. The Applicant should provide information relating to the legal, financial and technical arrangements, together with proposed monitoring, as required to provide/deliver the compensatory measures.*

*Applicants are strongly encouraged to work with the relevant ANCB (and landowners, where applicable) to identify the Compensatory Measures as early as possible during the pre-application stage.”*

26. The Compensation Documents listed in Section 4 describe feasible measures with evidence of their effectiveness; details of how the measures would be

delivered, managed and monitored; and provides information on the proposed scale, location and timing for each measure.

27. A Compensation Funding Statement is provided in Annex 2, demonstrating the financial viability of the proposals.
28. As discussed in Section 3.2, the Applicant has worked with relevant stakeholders during the pre-application development of the compensatory measures.

### 3.4 Collaboration with other OWFs

29. In accordance with the NPS discussed in Section 3.3.1 and consultation detailed in Annex 1, North Falls is in discussions with other NSIPs including Five Estuaries, Outer Dowsing, Rampion 2, Dogger Bank South, East Anglia ONE North and East Anglia TWO offshore wind farms.
30. Key areas of discussion relate to:
  - Lesser black-backed gull breeding enhancement (e.g. predator exclusion/control, disturbance management, habitat management), discussed further in the Lesser black-backed gull Compensation Document (Document Reference: 7.2.2).
    - The Applicant has retained options in its compensatory measures that would enable collaboration with Five Estuaries.
    - The Applicant also includes options to collaborate with the National Trust, a landowner within the AOE SPA.
  - Red throated diver data collection at the OTE SPA, discussed further in the Red throated diver Compensation Document (Document Reference: 7.2.3).
    - The Applicant has retained an option within its compensatory measures that would enable collaboration with East Anglia ONE North and East Anglia TWO.
  - Artificial nesting structure for kittiwake, discussed further in the Kittiwake Compensation Document (Document Reference: 7.2.4).
    - RWE (a parent company of NFOW) has developed a kittiwake tower at Gateshead, Tyne and Wear, England which has sufficient capacity to compensate for the effects on kittiwake of a number of its offshore wind farms, including North Falls. A Letter of Intent to co-operate between North Falls and Dogger Bank South (owned by RWE Renewables UK) is provided in Annex 1C.
  - Guillemot and razorbill breeding colony disturbance management, discussed further in the Guillemot and Razorbill Compensation Document (Document Reference: 7.2.5).
    - The Applicant proposed compensatory measures would enable collaboration with Five Estuaries, Rampion 2 and/or Outer Dowsing.
31. This approach seeks to align the Applicant's proposals with emerging forms of collaborative compensation, whilst also ensuring that project-alone measures

are able to be taken forward, should those collaborative options not become available.

32. The Applicant will continue to engage with these projects, as well as landowners and relevant stakeholders.

### 3.5 Strategic compensation

33. Strategic measures are included within the compensation proposals as alternative options should they become available within the necessary timescales for North Falls and thus, could feed into the Applicant's approach to compensatory measures or any future adaptive management requirements.
34. In the Secretary of State's decision letter (DESNZ, 2024) for the Sheringham Shoal Extension Project and Dudgeon Extension Project (SEP & DEP), it is stated that *"The Secretary of State agrees with the Applicant and NE that strategic compensation represents the best option for delivering compensation for impacts of OWFs"*.
35. At the time of the SEP & DEP consent, there was no available vehicle for strategic compensation, however the DCO allows for the option of compensation to be delivered through a contribution to the Strategic Compensation Fund. This option is therefore considered applicable to North Falls for all the features/European sites for which information on compensatory measures is provided.
36. As noted above, in the draft DCO (Document Reference: 6.1) the Applicant has conditioned the lesser black-backed gull compensation and provided for the substitution of project-led and collaborative measures with strategic compensation should a strategic option become available. This is in line with the approach taken by SEP & DEP.
37. Should it be concluded that compensatory measures are required for the other species assessed (red-throated diver, kittiwake, guillemot and/or razorbill), the Applicant would expect a similar approach be taken in any amendments to the DCO.

## 4 Guide to the Derogation and Compensation Application Documents

38. A range of documents have been produced by the Applicant describing the detail of the compensatory measures proposed (listed in Table 4.1). The documents include Compensation Documents for each species, which provide the details of the proposed measures and evidence of the ecological effectiveness. In addition, outline Compensation Implementation and Management Plans (CIMPs) are provided for each species which enable the measures to be secured through the DCO if required, showing the content that will be developed post consent in discharging the consent conditions.

**Table 4.1 HRA documents (Compensation documents in bold)**

Site / Feature	Document Reference:	Document Name	Purpose
<b>All</b>	7.1	Report to Inform Appropriate Assessment	Information necessary for the competent authority to carry out the Appropriate Assessment
	7.2	Habitats Regulations Derogation: Provision of Evidence	Evidence to support Stage 3 (Derogation) of the HRA Process
	<b>7.2.1</b>	<b>Appendix 1 Compensatory Measures Overview (This document)</b>	Guide to the suite of documents prepared by the Applicant relating to its proposed compensatory measures
	<b>7.2.1.1</b>	<b>Annex 1A HRA Compensation Consultation</b>	Details of feedback on the development of compensatory measures from the Offshore Ornithology ETG and the Applicant response.
	<b>7.2.1.2</b>	<b>Annex 1B Compensation Funding Statement</b>	Evidence of the financial viability of the compensatory measures
	<b>7.2.1.3</b>	<b>Annex 1C In Principle Letter of Agreement from Dogger Bank South (East and West)</b>	Evidence of the willingness of North Falls and Dogger Bank South to explore collaborative compensatory measures.
<b>AOE SPA - Lesser black-backed gull</b>	<b>7.2.2</b>	<b>Appendix 2 Lesser Black-Backed Gull Compensation Document</b>	Sets out the detail of the proposed project-led not without prejudice compensatory measures for Lesser black-backed gull. It demonstrates how the measures can be secured and that the mechanism for delivery can be implemented. It also provides an overview of the selection process for the compensatory measures.
	<b>7.2.2.1</b>	<b>Annex 2A Outline Lesser Black-backed Gull Compensation Implementation and Monitoring Plan (CIMP)</b>	The Outline Lesser black-back gull CIMP sets out the information that will be required in the Lesser-black backed gull CIMP that will be submitted for approval by the Secretary of State in accordance with the draft DCO (Document Reference: 6.1).
<b>OTE SPA – Red throated diver (without prejudice)</b>	<b>7.2.3</b>	<b>Appendix 3 Red Throated Diver Compensation Document</b>	Sets out the detail of the without prejudice compensatory measures for Red throated diver. It demonstrates how the measures can be secured and that the mechanism for delivery can be implemented. It also provides an overview of the selection process for the compensatory measures.
	<b>7.2.3.1</b>	<b>Annex 3B Outline Red Throated Diver CIMP</b>	The Outline Red-throated diver CIMP sets out the information that will be required in the Red-throated diver CIMP that will be submitted for approval post consent, if compensation is required by the DCO.
<b>FFC SPA – Kittiwake (without prejudice)</b>	<b>7.2.4</b>	<b>Appendix 4 Kittiwake Compensation Document</b>	Sets out the detail of the proposed project-led without prejudice compensatory measures for kittiwake. It demonstrates how the measures can be secured and that the mechanism for delivery can be implemented. It also provides an overview of the selection process for the compensatory measures.
	<b>7.2.4.1</b>	<b>Annex 4A Outline Kittiwake CIMP</b>	The Outline Kittiwake CIMP sets out the information that will be required in the Kittiwake CIMP that will be submitted for approval post

Site / Feature	Document Reference:	Document Name	Purpose
			consent, if compensation is required by the DCO.
FFC SPA – Guillemot and Razorbill (without prejudice)	7.2.5	<b>Appendix 5 Guillemot and Razorbill Compensation Document</b>	Sets out the detail of the proposed project-led without prejudice compensatory measures for auks. It demonstrates how the measures can be secured and that the mechanism for delivery can be implemented. It also provides an overview of the selection process for the compensatory measures.
	7.2.5.1	<b>Annex 5A Outline Guillemot and Razorbill CIMP</b>	The Outline Guillemot and Razorbill CIMP sets out the information that will be required in the Kittiwake CIMP that will be submitted for approval post consent, if compensation is required by the DCO.

## 5 Scope of the Compensation Documents and Outline Plans

39. Each Compensation Document (Appendices 2 to 5 (Document References: 7.2.2, 7.2.3, 7.2.4 and 7.2.5)) sets out the detail of the proposed compensatory measures for the relevant site/s and interest feature/s, including:
- Evidence of ecological effectiveness;
  - Delivery mechanism i.e. how the proposed measures will be delivered;
  - Scale;
  - Location;
  - Timescales;
  - Monitoring, maintenance and adaptive management; and
  - Potential impacts from implementation of the compensation.
40. The outline CIMPs set out the information that will be required in the (final) CIMPs, should compensation be required, that can be conditioned in the DCO and will be submitted for approval by the Secretary of State post consent.

## 6 Summary of the Compensatory Measures

41. A summary of the proposed measures for each species, if required following the Appropriate Assessment, is presented in Table 6.1.
42. While options are provided, a single measure would be selected for each species as each measure is deemed to be able to fully compensate for the values provided in Section 2.



**Table 6.1 Summary of proposed compensatory measures and method of delivery considered at application**

Site/species	Compensation options
<b>Primary</b>	
AOE - Lesser black-backed gull	Breeding enhancement (e.g. predator exclusion/control, disturbance management, habitat management)
	Contribution to a Strategic Compensation Fund/Marine Recovery Fund
<b>Without Prejudice</b>	
OTE SPA – Red throated diver	Breeding habitat enhancement (e.g. nesting rafts and/or habitat management) in Scotland
	Breeding habitat enhancement (e.g. nesting rafts) in Finland
	Data collection and analysis to inform understanding of red throated diver disturbance in the OTE SPA
	Contribution to a Strategic Compensation Fund/Marine Recovery Fund
FFC SPA – Kittiwake	Onshore Artificial Nesting Site
	Contribution to a Strategic Compensation Fund/Marine Recovery Fund
FFC SPA – Guillemot and Razorbill (if required)	Reduction of recreational disturbance at a breeding colony
	Contribution to a Strategic Compensation Fund/Marine Recovery Fund

## 7 References

Defra (2021) Best practice guidance for developing compensatory measures in relation to Marine Protected Areas. Draft for consultation
Defra (2024) Consultation on policies to inform updated guidance for Marine Protected Area (MPA) assessments. Draft for consultation
DESNZ (2024). Application for Development Consent for the Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Project. Available at: <a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010109/EN010109-002340-SADEPS%20SOS%20LETTER%20DESNZ%20170424.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010109/EN010109-002340-SADEPS%20SOS%20LETTER%20DESNZ%20170424.pdf</a>
Furness, R., 2015. Non-breeding season populations of seabirds in UK waters: Population sizes for Biologically Defined Minimum Population Scales (BDMPS). Natural England Commissioned Report 164
Natural England (2022) Offshore Wind Marine Environmental Assessments: Best Practice Advice for Evidence and Data Standards. Phase III: Expectations for data analysis and presentation at examination for offshore wind applications.
The Planning Inspectorate (2022). Advice Note Ten: Habitat Regulations Assessment relevant to Nationally Significant Infrastructure Projects.



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